

## Message Text

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PAGE 01 CARACA 04957 181659Z  
ACTION ARA-10

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FM AMEMBASSY CARACAS  
TO SECSTATE WASHDC 7696

C O N F I D E N T I A L CARACAS 4957

E.O. 11652: GDS  
TAGS: ENRG, EINV, VE  
SUBJECT: PETROLEUM NATIONALIZATION -COMPTROLLER GENERAL'S  
BACK TAX CLAIM

REF: CARACAS 4606

1. SUMMARY. THE COMPTROLLER GENERAL, IN HIS ANNUAL REPORT TO CONGRESS, REFERS TO THREE CLAIMS FOR BACK TAXES PENDING AGAINST THE PETROLEUM EX-CONCESSIONAIRES AMOUNTING TO OVER \$600 MILLION. IN THE CASE OF THE LARGEST CATEGORY OF CLAIMS, HE APPEARS TO ACCEPT THE PROCEDURE UNDER WHICH THEY ARE BEING CHALLENGED BY THE COMPANIES WHILE DISCLAIMING ANY PERSONAL INVOLVEMENT IN THEIR ORIGIN AND DEVELOPMENT. END SUMMARY.

2. THE LOCAL PRESS OF MAY 16 PUBLISHED A SUMMARY OF THE ANNUAL REPORT OF THE COMPTROLLER GENERAL OF THE REPUBLIC TO THE CONGRESS. THE LENGTHY DOCUMENT DEALS PRIMARILY WITH CORRUPTION AND DEFICIENCIES IN GOVERNMENT ADMINISTRATION AND WITH TAX REFORM, BUT ALSO CONTAINS A SHORT FACTUAL SECTION ON THE VARIOUS TAX CLAIMS BROUGHT BY THE OFFICE OF THE COMPTROLLER GENERAL AGAINST THE PETROLEUM EX-CONCESSIONAIRES.

3. THE AMOUNT OF THE LARGEST OF THESE CLAIMS, THAT RESULTING FROM THE PROPOSED RETROACTIVE APPLICATION OF A 1970 TAX INCREASE,  
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IS GIVEN AS BS 2.6 BILLION (\$607 MILLION) FOR THE INDUSTRY AS A WHOLE. THIS COVERS CLAIMS FOR 1970 AND THE FIRST QUARTER OF 1971, AFTER WHICH THE NEW RATES WERE, IN FACT, APPLIED BY THE TAX AUTHORITIES. IN HIS REPORT, COMPTROLLER GENERAL JOSE ANTONIO OCTAVIO NOTES THAT THIS ACTION HAD BEEN INITIATED BY HIS PREDECESSOR AND HAS SINCE DEVELOPED NORMALLY WITHIN HIS OFFICE, BUT MAKES IT CLEAR THAT HE HAS ABSTAINED FROM ANY PERSONAL

INVOLVEMENT, AS HE HAD PREVIOUSLY FILED AN OPINION IN THE CASE WHILE IN PRIVATE PRACTICE.

4. HE STATES THAT THE COMPANIES HAVE CHALLENGED THE CLAIMS CORRESPONDING TO 1970 UNDER THE PROCEDURE PROVIDED FOR IN THE ORGANIC LAW OF THE COMPTROLLER GENERAL'S OFFICE, THAT THESE CHALLENGES ARE NOW BEING DEALT WITHIN THE SECOND INCOME TAX COURT, AND THAT ONCE DECIDED THERE THEY WILL BE NOTIFIED TO THE SUPREME COURT. A SIMILAR PROCEDURE IS EXPECTED TO BE FOLLOWED WITH THE CLAIMS CORRESPONDING TO THE FIRST QUARTER OF 1971.

5. THE REPORT ALSO REFERS TO TWO SMALLER CLAIMS BROUGHT BY THE COMPTROLLER GENERAL AGAINST THE COMPANIES. THE FIRST OF THESE, INVOLVING BS 24 MILLION (\$5.6 MILLION) RELATES TO DEDUCTIONS, TAKEN BY THE COMPANIES IN CALCULATING THEIR LOCAL TAXES, FOR CHARGES ASSESSED TO MAINTAIN A SHIP CHANNEL THROUGH A SAND BAR AT THE MOUTH OF LAKE MARACAIBO (LOCALLY KNOWN AS THE BAR TAX CASE.) THE SECOND, INVOLVING BS 16 MILLION (\$3.7 MILLION) ALSO INVOLVES A DISPUTE OVER TAX DEDUCTIONS TAKEN BY THE COMPANIES.

6. COMMENT. THE COMPTROLLER GENERAL'S REPORT BREAKS NO NEW GROUND BUT IS OF INTEREST BECAUSE IT APPEARS AT LEAST TACITLY TO ACCEPT THE PROCEDURE FOLLOWED BY THE COMPANIES IN DISPUTING THE CLAIMS, A PROCEDURE WHICH DOES NOT REQUIRE THE POSTING OF BOND. THE COMPTROLLER ALSO PUBLICLY WASHES HIS HANDS OF ANY RESPONSIBILITY FOR THE ORIGIN OR SUBSEQUENT EVOLUTION OF THESE CLAIMS, AND TAKES NO POSITION ON THEIR CONFIDENTIAL

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VALIDITY.

7. IN THE FIRST PUBLIC COMMENT ON THE CASE IN MONTHS, URD CONGRESSMAN RAMON TENORIO SIFONTES RECENTLY STATED THE GOV SHOULD TAKE MEASURES TO ENSURE PAYMENT BY THE COMPAINIES IN CASE THE COURTS DECIDE IN FAVOR OF THE CLAIMS. HE ALSO LAMENTED THE FACT THAT THE ATTORNEY GENERAL HAD NOT ASSOCIATED HIMSELF WITH CLAIMS BY THE COMPTROLLER GENERAL'S OFFICE. TENORIO SIFONTES' REMARKS WERE CLEARLY TRIGGERED BY THE REPORT DESCRIBED ABOVE AND SEEMED TO LACK STRONG CONVICTION. VAKY

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## Message Attributes

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